



Matthew W. Gissendanner
Assistant General Counsel

matthew.gissendanner@scana.com

May 10, 2018

VIA ELECTRONIC FILING

**The Honorable Jocelyn G. Boyd
Chief Clerk/Administrator
Public Service Commission of South Carolina
101 Executive Center Drive
Columbia, South Carolina 29210**

**RE: South Carolina Electric & Gas Company's 2018 Integrated Resource
Plan
Docket No. 2018-9-E**

Dear Ms. Boyd:

Enclosed for filing on behalf of South Carolina Electric & Gas Company ("SCE&G") are Objections of SCE&G to South Carolina Solar Business Alliance, Inc.'s First Set of Interrogatories, First Request for Production, and First Request for Admissions and Motion for an Order of Protection in the above-captioned docket.

By copy of this letter, we are serving a copy of SCE&G's Objections and Motion on counsel for the parties of record and enclose a certificate of service to that effect.

If you have any questions or concerns, please do not hesitate to contact us.

Very truly yours,

Matthew W. Gissendanner

MWG/kms

Enclosures

cc: Dawn Hipp
Jeffrey M. Nelson, Esquire
Elizabeth Jones, Esquire
Richard L. Whitt, Esquire
Roger Hall, Esquire

(all via electronic mail and U.S. First-Class Mail w/enclosures)

ELECTRONICALLY FILED - 2018 May 10 1:58 PM - SCPSC - Docket # 2018-9-E - Page 2 of 11

South Carolina Electric & Gas Company - Integrated Resource Plan (IRP)

**OBJECTIONS OF SCE&G TO
SOUTH CAROLINA SOLAR BUSINESS
ALLIANCE, INC.'S FIRST SET OF
INTERROGATORIES, FIRST
REQUEST FOR PRODUCTION, AND
FIRST REQUEST FOR ADMISSIONS
AND MOTION FOR AN ORDER OF
PROTECTION**

South Carolina Electric & Gas Company ("SCE&G" or the "Company"), through its undersigned counsel, pursuant to 10 S.C. Code Ann. Reg. 103-833 and 103-835 (2012) and S.C. R. Civ. P. 26(c), 33, 34, and 36, hereby objects to the First Set of Interrogatories, the First Request for Production of the South Carolina Solar Business Alliance, Inc. ("SCSBA"), each dated April 26, 2018, and the First Request for Admissions, dated May 8, 2018, and moves the Public Service Commission of South Carolina ("Commission") for an order of protection prohibiting the SCSBA from conducting discovery unless and until such time as the Commission determines that further proceedings in this docket are required. SCE&G further requests the Commission to toll any deadlines for SCE&G to respond to the First Set of Interrogatories, the First Request for

Production, and the First Request for Admission of the SCSBA until such time as the Commission can rule on this Motion.¹ In support of these Objections and Motion, SCE&G shows as follows:

1. In South Carolina, a utility's integrated resource plan ("IRP") is a planning document. By filing its IRP with the Commission, the utility is neither seeking nor requesting any relief from the Commission. And, although the IRP is a planning document, it is not self-executing. Instead, in subsequent dockets in which the utility may seek permission and relief to implement certain components of the IRP, the Commission adjudicates the actions requested by the utility implement certain components of the IRP.

2. The statute governing a utility's IRP provides that "[f]or electrical utilities subject to the jurisdiction of the [C]ommission, submission of their plans as required by the [C]ommission constitutes compliance with this section." S.C. Code Ann. § 58-37-40(A).

3. By Order No. 98-502, dated July 2, 1998, the Public Service Commission of South Carolina ("Commission") required that IRP filings include the following information:

- a. The demand and energy forecast for at least a 15-year period.
- b. The supplier's or producer's program for meeting the requirements shown in its forecast in an economic and reliable manner, including both demand-side and supply-side options.

¹ SCE&G reserves the right to raise additional objections to individual responses should the Commission deny the relief requested herein. The grounds for these objections may include, but are not limited to, that the information requested is not relevant to the issues in this docket and/or not reasonably calculated to lead to admissible evidence; that the request is vague and/or overly broad; that the information requested is confidential and/or protected by the attorney/client privilege, the work product doctrine, or any other privilege or immunity which may attach to the information requested; that the requests asks SCE&G to create or generate any information unknown to SCE&G in the course of assembling, creating, or generating those documents maintained in the regular course of business.

- c. A brief description and summary of cost-benefit analysis, if available, of each option, which was considered, including those not selected.
- d. The supplier's and producer's assumptions and conclusions with respect to the effect of the plan on the cost and reliability of energy service, and a description of the external, environmental and economic consequences of the plan to the extent practicable.

- 4. By Order No. 2012-96, dated February 1, 2012, the Commission held as follows:

In future IRP dockets, . . . the Commission may determine, at its discretion, whether any additional filings will be required by the utility, in addition to submitting its IRP, and whether any additional filing will be required by any intervenor, in addition to submitting written comments. Upon reviewing the parties' filings, the Commission may also determine, at its discretion, whether further proceedings are appropriate.

- 5. On February 28, 2018, SCE&G filed its 2018 Integrated Resource Plan ("IRP") with the Commission in this docket.

- 6. On March 19, 2018, the SCSBA petitioned to intervene in this docket.

- 7. By Order No. 2018-243, the Commission granted SCSBA's petition to intervene, thereby setting the SCSBA's deadline for filing comments in this docket at May 4, 2018. See electronic mail, dated March 29, 2018, from the Standing Hearing Officer David Butler to parties of record at that time (SCE&G, the South Carolina Office of Regulatory Staff, and South Carolina Coastal Conservation League and the Southern Alliance for Clean Energy ("CCL/SACE")) citing Commission Order Nos. 2012-95 and 2017-764 and indicating that "unless another order is issued, parties now have 30 days from their date of approval of their intervention in an IRP Docket by the Commission to file comments."

8. By letter dated April 17, 2018, counsel for the SCSBA requested “a clarification from the Commission that the Commission will make an explicit finding this year, of SCE&G’s compliance with the requirements of Order No. 1998-502. This request acknowledges that the only issue properly before the Commission in this proceeding is whether SCE&G’s 2018 IRP complies the requirements set forth in Commission Order 98-502.

9. On April 26, 2018, eight days prior to its deadline to file comments, the SCSBA served the First Set of Interrogatories and First Request for Production on SCE&G, requesting that each be answered “within twenty (20) days from the date of service,” i.e., May 16, 2018. As such, the discovery served by SCSBA was not intended by SCSBA to help with its comments on SCE&G’s 2018 IRP.

10. Unlike the SCSBA, CCL/SACE served three separate sets of discovery on the Company in this docket in a timely manner, and the Company responded to each prior to CCL/SACE’s filing of its comments.

11. On May 2, 2018, the SCSBA filed its written comments in this docket.

12. On May 8, 2018, six days after it filed its written comments, the SCSBA served the First Request for Admissions on SCE&G, requesting that each be answered “within twenty (20) days from the date of service.” However, pursuant to S.C. R. Civ. P. 36(a), SCE&G has “30 days after service off the request” to respond to the First Request for Admissions and, therefore, SCE&G’s responses are not due until June 7, 2018. As such, the discovery served by the SCSBA was not intended by SCSBA to help with its comments on SCE&G’s 2018 IRP.

13. To date, SCE&G has not provided any information, confidential or otherwise, to SCSBA in this docket. However, Request Nos. 8, 10, 11, 12, and 13 in the SCSBA’s First Request for Admissions, include SCE&G’s confidential information, which was provided to the SCSBA

in Docket No. 2018-2-E pursuant to the terms of a confidentiality agreement between the parties, dated March 16, 2018 (“Confidentiality Agreement”). Paragraph 6 of that Confidentiality Agreement specifically provides that “[i]t is further agreed that the Confidential Information requested herein will be used for no purpose other than for SCSBA’s preparation for matters relating to Docket No. 2018-2-E.” (Emphasis added.) As such, SCSBA’s use of the confidential information provided to it by SCE&G in Docket No. 2018-2-E for purposes of conducting discovery in this docket is a clear violation of the terms of the Confidentiality Agreement.

FIRST GENERAL OBJECTION

14. As shown in Paragraphs 2, 3, and 8 herein, the only issue properly before the Commission is whether the 2018 IRP filed by SCE&G complies with the requirements set forth in Order No. 98-502.

15. Whether SCE&G’s 2018 IRP complies with the requirements of Order No. 1998-502 is a question of fact for the Commission to determine based on the face of the 2018 IRP itself. SCE&G’s 2018 IRP either contains the information set forth in Order No. 98-502 or it does not.

16. None of the discovery sought in the SCSBA’s First Set of Interrogatories, First Request for Production, or First Request for Admissions is relevant to the sole issue before the Commission in this docket, nor is it reasonably calculated to lead to the discovery of admissible evidence.

17. For these reasons, SCE&G objects to the SCSBA’s First Set of ~~Interrogatories~~ **Interrogatories**.

18. For these reasons, SCE&G objects to the SCSBA’s First Request for **Production**.

19. For these reasons, SCE&G objects to the SCSBA’s First Request for **Admissions**.

SECOND GENERAL OBJECTION

20. As shown in Paragraph 4 herein, Commission Order No. 2012-96 establishes that after SCE&G files its IRP and the parties file their written comments, it is the ~~Commission~~ not the other parties who decides whether further information is required of SCE&G and whether any further proceedings are necessary.

21. To date, the Commission has neither requested further information from SCE&G nor scheduled further proceedings in this docket.

22. As such, SCSBA's service of discovery upon SCE&G of discovery to be produced after the filing of SCSBA's public comments is inappropriate and is not reasonably calculated to lead to the discovery of admissible evidence.

23. For these alternative reasons, SCE&G objects to the SCSBA's First Set of Interrogatories.

24. For these alternative reasons, SCE&G objects to the SCSBA's First Request for Production.

25. For these alternative reasons, SCE&G objects to the SCSBA's First Request for Admissions.

MOTION FOR ORDER OF PROTECTION

26. South Carolina Rule of Civil Procedure 26(c) authorizes the Commission, "for good cause shown," to "make any order which justice requires to protect any party from annoyance, . . . oppression, or undue burden by expense" *See also* 10 S.C. Code Ann. Reg. 103-835 (2012) ("The S. C. Rules of Civil Procedure govern all discovery matters not covered in Commission

Regulations.”). Rule 26 further provides that the Commission may issue an order “that the discovery not be had.” S.C. R. Civ. P. 26(c)(1).

27. The Supreme Court of South Carolina has observed, in the context of Commission proceedings, that “[i]t is well-settled that ‘the scope and conduct of discovery are within the sound discretion of the trial court.’” *Palmetto Alliance, Inc. v. S.C. Pub. Serv. Comm’n*, 282 S.C. 430, 436, 319 S.E.2d 695, 698 (1984) (quoting *Marroquin-Manriquez v. I.N.S.*, 699 F.2d 129 (3d Cir. 1983)); see also *Hamm v. S.C. Pub. Serv. Comm’n*, 312 S.C. 238, 241, 439 S.E.2d 852, 854 (1994) (noting that the Commission has “broad latitude in limiting the scope of discovery” where the process “threatens to become abusive . . .”).

28. As shown in Paragraphs 7, 9, 11, and 12, the discovery that has been served by SCSBA and that may be served by SCSBA upon SCE&G was not intended by SCSBA to help with its comments on SCE&G’s 2018 IRP.

29. Moreover, as set forth herein, the discovery is irrelevant to the sole issue before the Commission in this matter, i.e., whether SCE&G’s 2018 IRP complies with the requirements set forth in Commission Order No. 98-502, and is not reasonably calculated to lead to the discovery of admissible evidence.

30. Furthermore, because the Commission has not requested that SCE&G provide any further information or scheduled further proceedings in this docket, further discovery conducted by SCSBA after the filing of its written comments is inappropriate and is intended only to annoy, harass, and oppress SCE&G and places an undue burden by expense on the Company in responding the requests which are irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

31. Without entry of an order of protection, SCSBA may continue to annoy, harass, and oppress SCE&G and require the Company to expend considerable resources in responding to the requests which are irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

32. SCE&G submits that the entry an order of protection will protect SCE&G from the harm that might be otherwise caused by continued service of discovery by SCSBA in this docket where the Commission has made no determination that further evidence is required of the Company or that further proceedings are necessary.

WHEREFORE, SCE&G respectfully requests that the Commission enter an order of protection prohibiting the SCSBA from conducting discovery of SCE&G in this docket unless and until such time as the Commission determines that further proceedings in this docket are required and tolling any deadlines for SCE&G to respond to the First Set of Interrogatories, the First Request for Production, and the First Request for Admissions of the SCSBA until such time as the Commission can rule upon this Motion.



K. Chad Burgess
 Matthew W. Gissendanner
 South Carolina Electric & Gas Company
 Mail Code C222
 220 Operation Way
 Cayce, SC 29033
 (803) 217-8141
 chad.burgess@scana.com
 matthew.gissendanner@scana.com

**Attorneys for South Carolina Electric & Gas
 Company**

Cayce, South Carolina
 May 10, 2018

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2018-9-E

IN RE:

South Carolina Electric & Gas Company's) Integrated Resource Plan (IRP)) _____)))))	CERTIFICATE OF SERVICE
--	------------------	-----------------------------------

This is to certify that I have caused to be served this day one (1) copy of the **Objections of SCE&G to South Carolina Solar Business Alliance, Inc.'s First Set of Interrogatories, First Request for Production, and First Request for Admissions and Motion for an Order of Protection** via electronic mail and U.S. First Class Mail to the persons named below at the address set forth:


Jeffrey M. Nelson, Esquire
 Office of Regulatory Staff
 1401 Main Street, Suite 900
 Columbia, SC 29201
jnelson@regstaff.sc.gov

Dawn Hipp
 Office of Regulatory Staff
 1401 Main Street, Suite 900
 Columbia, SC 29201
dhipp@regstaff.sc.gov

Elizabeth Jones, Esquire
 Southern Environmental Law Center
 463 King Street, Suite B
 Charleston, SC 29403
ejones@selcsc.org

Richard L. Whitt, Esquire
Austin & Rogers, P.A.
508 Hampton Street, Suite 203
Columbia, SC 29201
rlwhitt@austinrogerspa.com

Roger Hall, Esquire
Baker, Donelson, Bearman, Caldwell & Berkowitz, PC
1501 Main Street, Suite 600
Columbia, SC 29201
rhall@bakerdonelson.com



Karen M. Scruggs

Cayce, South Carolina

This 10th day of May 2018